

Date of decision: 21-12-1995

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.K. KESHOTE, J
(21-12-95)

Mr. Y.N. Oza for the petitioners
Mr. D.A. Bambania for respondents No.1,2
Mr. Hemant Munshaw for respondents no.3 & 4.

ORAL JUDGMENT:

The petitioners are primary school teachers working at present in different schools of Gandhinagar District (Rural). The petitioners filed this writ petition challenging the order of respondent No.2 dated 18-2-1993 (annexure-C) and the order of respondent No.1 confirming the aforesaid order of respondent No.2. The petitioners have further challenged the consequential order passed by the District Panchayat, Gandhinagar. The matter pertains to transfer of the petitioners from one school to another school, though situated within the territorial jurisdiction of the District Panchayat, Gandhinagar. In the writ petition the petitioners have prayed for interim relief which reads as follows:

"Pending admission, hearing and final disposal of this petition, be pleased to stay the order of respondent No.2 dated 18-2-1993 and also the order of .R

order of respondent No.2 dated 18-2-1993 and be pleased to suspend its execution, implementation, enforcement and operation and be pleased to restrain the respondents, their officers and agents from effecting inter-district transfers/retransfers of all the petitioners and further be pleased to direct all the respondents, their officers, agents and servants to maintain status quo as prevailed on 3-2-1994, and further be pleased to suspend the consequential orders passed in pursuance to the order dated 18-2-1993 and the order by the State Government confirming the above order.

2. In the writ petition notice was issued to respondents on 9-2-1994, and ad-interim relief in terms of para 13(c) except the bracketed portion by red pencil was granted. It is not in dispute between the parties that the transfer order which has been made of the petitioners could not be carried forward or given effect to as this Court has protected the petitioners by granting ad-interim relief. These transfer orders are of the month of February, 1994. Within a short period it will complete a period of two years. At this stage I do not consider it to be a fit case where the matter should be decided on merits because it is not in dispute that the petitioners are holding transferable posts. When the petitioners are holding transferable posts, they have no right to continue for indefinite period at a particular place. The competent authority has power to

transfer the petitioners.

3. With the consent of the learned counsel for the parties the writ petition is disposed of with the direction that the orders passed earlier of the transfer of petitioners shall not be given effect to presently, but it shall be open to the respondents to pass appropriate orders of transfer of the petitioners. While passing the orders of transfer of the petitioners it is expected of the respondents that they will take care of the transfer policies or the guidelines, if any, laid down in this respect. It is further expected of the respondents that they will not make any transfer orders of the petitioners till the end of this academic session. Rule discharged. Ad-interim relief granted earlier by this court stands vacated. No order as to costs.